

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.Rev.Pet.No. 3955 of 2007()

**AGAINST THE JUDGEMENT/ORDER IN CRLP.417/2005 Dated 12/07/2005
CC.2213/2003 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI**

REVN. PETITIONER: APPELLANT/COMPLAINANT:

**M/S. STEEL CENTER,
34/425, PADIVATTOM, N.H. BYEPASS, EDAPPALLY P.O.,
COCHIN-24, REPRESENTED BY ITS MANAGING PARTNER,
MR.ABDUL RAHIM.**

BY ADV. SRI.PAULSON C.VARGHESE

RESPONDENTS: ACCUSED:

**1. M/S. MODERN FURNITURE WORKS,
KONGAD ROAD, MUNDOOR, PALAKKAD-678 592,
REPRESENTED BY ITS PROPRIETOR, BHARATHY VIJAYAN.**

**2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

**BY ADV. SRI.O.P.NANDAKUMAR
SRI.V.A.AJAI KUMAR
PUBLIC PROSECUTOR SRI.C.M.NAZAR**

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

V. RAMKUMAR, J.

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Crl. R.P. No. 3955 OF 2007
.....

Dated this the 12th day of November, 2007

O R D E R

The revision petitioner is the complainant in C.C.No.2213/03 on the file of JFCM-I, Kochi for an offence punishable under section 138 of the Negotiable Instruments Act, 1881, involving a cheque for a sum of Rs.58,900/-. The Magistrate dismissed the complaint under section 204(4) Cr.P.C. for the reason that the revision petitioner/complainant failed to take steps under sections 82 and 83 Cr.P.C. against the absconding accused.

2. A perusal of the proceedings shows that there was failure to take steps on the part of the complainant only once. At any rate, the Magistrate was not justified in dismissing the complaint. Instead, the Magistrate should have given the petitioner one more opportunity to take steps under sections 82 and 83 Cr.P.C. against the absconding accused. Eventhough the 1st respondent accused has been absconding before the courts below, he was duly served with notice in this revision and he has entered appearance through Advocates M/s.O.P.Nandakumar and

V.A.Ajaykumar. Now that the 1st respondent/accused has entered appearance before this court, it may not be necessary for the court below to take coercive steps for securing the presence of the accused before that court. The impugned order dated 20.4.05 is accordingly set aside and the Magistrate is directed to proceed with the complaint in accordance with law without insisting on any steps for the appearance of the accused. Both the revision petitioner as well as the accused shall appear before the court below on 10.12.2007 without any further notice.

This Crl.R.P. is disposed of as above.

(V. RAMKUMAR, JUDGE)

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